

DECISION MEMORANDUM

TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: NEIL PRICE
DEPUTY ATTORNEY GENERAL

DATE: NOVEMBER 16, 2010

SUBJECT: AMENDED APPLICATION OF TRACFONE WIRELESS, INC. FOR
DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS
CARRIER IN THE STATE OF IDAHO, CASE NO. TFW-T-09-01

PROCEDURAL BACKGROUND

On October 29, 2009, TracFone Wireless, Inc. (“TracFone” or “Company”) filed an Application, pursuant to Section 214(e)(2) of the Communications Act of 1934, for designation as an eligible telecommunications carrier (“ETC”). *Application* at 1. TracFone is seeking ETC designation solely for the purpose of providing Lifeline service under its trade name SafeLink Wireless and will not seek funds from the federal Universal Service Fund. *Id.*

On January 15, 2010, Commission Staff submitted a Decision Memorandum recommending that the Commission deny TracFone’s Application. On February 5, 2010, the Commission issued an Order denying TracFone’s Application. *See* Order No. 30996.

On March 1, 2010, TracFone filed a Petition for Reconsideration and an Amended Application for ETC designation. On March 8, 2010, Commission Staff filed an Answer to TracFone’s Petition. Subsequently, TracFone submitted a letter withdrawing its Petition for Reconsideration and expressing its support for a process that would facilitate a Staff review and recommendation regarding its Amended Application within 60 days.

On April 26, 2010, Staff and TracFone filed a *Joint Stipulation Regarding First Production Requests of the Commission Staff*.

On May 14, 2010, CTC Telecom, Inc. dba Snake River PCS (“CTC”) and Idaho Telecom Alliance (“ITA”) each filed, pursuant to Commission Rule of Procedure 71, IDAPA 31.01.01.071, a *Motion to Intervene Out of Time and Petition to Intervene*.

On May 19, 2010, TracFone filed, pursuant to Commission Rule of Procedure 75, IDAPA 31.01.01.075, a *Motion in Opposition of TracFone Wireless, Inc. to Petitions to Intervene of CTC Telecom, Inc. dba Snake River PCS and Idaho Telecom Alliance*.

On May 28, 2010, the Commission issued an Order granting CTC and ITA’s Petitions to Intervene. *See* Order No. 31096. The Commission also mandated that the parties hold a scheduling conference “in order to develop an appropriate schedule going forward in this case, including a hearing if needed.” *Id.* at 3.

SCHEDULING CONFERENCE

On November 15, 2010, representatives for TracFone, ITA, CTC and Commission Staff convened a scheduling conference at the Commission’s office. As a preliminary matter, ITA and CTC asserted that a hearing in this case would be necessary. All of the parties agreed that an identification of specific issues through the filing of a prehearing brief would be appropriate. The parties request that the Commission issue an Order establishing a deadline of December 17, 2010 for the filing of the brief. The parties believe that the development of a full case schedule would be premature until the Commission has issued a ruling outlining the relevant issues in this case.

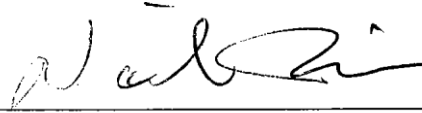
MOTION FOR ADMISSION PRO HAC VICE

On November 16, 2010, TracFone filed a Motion requesting an Order for the Admission of Pro Hac Vice for Mitchell F. Brecher. Mr. Brecher certified that he is an active member, in good standing, of the bar of State of Maryland and the District of Columbia. Mr. Brecher is not a resident of this state or a member of the bar of the State of Idaho. TracFone’s local counsel, Mr. Dean J. Miller, acknowledges that his attendance shall be required at all court proceedings in which Mr. Brecher appears unless his attendance is excused by the presiding authority.

COMMISSION DECISION

1. Does the Commission wish to hold a formal hearing? If so, does the Commission wish to order the parties to submit a prehearing brief identifying the relevant issues in this case?

2. Does the Commission wish to grant the Motion for Admission Pro Hac Vice of counsel for TracFone, Mitchell F. Brecher?

A handwritten signature in black ink, appearing to read "Neil Price", is written above a horizontal line.

Neil Price
Deputy Attorney General

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